BRANSTETTER, KILGORE, STRANGER & JENNINGS

ATTORNEYS AT LAW

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FOURTH FLOOR

NASHVILLE, TENNESSEE 37201-1631

February 16, 2005

J.R.A. DOCKET ROOM

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CECIL D BRANSTETTER, SR C DEWEY BRANSTETTER, JR RANDALL C FERGUSON R JAN JENNINGS* CARROL D KILGORE DONALD L SCHOLES JAMES G STRANCH, III JANE B STRANCH

JOE P LENISKI, JR MARK A MAYHEW J GERARD STRANCH, IV

*ALSO ADMITTED IN GA

Sharla Dillon, Docket Room Manager Tennessee Regulatory Authority 460 James Robertson Parkway Nashville, TN 37243-0505

Re: Petition of Lynwood Utility Corporation for Approval of Transfer and Control

Nunc Pro Tunc

Docket No 04-00360

Dear Ms Dillon

Pursuant to the January 14, 2005 letter of Aster Adams to me, I have enclosed the original and thirteen copies of the Response of Lynwood Utility Corporation to Staff Data Request No. 2 in this matter.

As set forth in the Response, Lynwood has hired James Ford, a financial consultant familiar with public utility accounting, to assist it in the review of its accounts and preparation of its financial statements for the year ended December 31, 2004. Mr Ford will be meeting on Friday, February 18, 2005, with the accounting firm Lynwood has been using to assist him in finalizing the financial statements for the year ended December 31, 2004. As soon as the financial statements are completed, they will be forwarded to the Authority Rather than delay this Response until the financial statements for the year ended December 31, 2004, are completed, Lynwood is filing the Response and will supplement its Response with the financial statements for the year ended December 31, 2004, shortly. Tyler Ring, John Ring and Mr. Ford are more than willing to meet with the Staff upon the submission of the financial statements to discuss the financial statements, this Response and any other issues related to the Petition

Thank you for your assistance in this matter.

Sincerely yours,

DONALD L. SCHOLES

Wonald L. Scholer

Enclosures

{002789\04477\00018675 DOC / Ver 1}



c Tyler Ring James Ford RECEIVED

BEFORE THE TENNESSEE REGULATORY AUTHORITY
2005 FEB 16 PM 3: 30

Nashville, Tennessee

T.R.A. DOCKET ROOM

In re:	PETITION OF LYNWOOD UTILITY)	*	1
	CORPORATION FOR APPROVAL)		
	OF TRANSFER AND CONTROL)	DOCKE	Γ NO. 04-00360
	NUNC PRO TUNC)		

PETITIONER'S RESPONSE TO DATA REQUEST NO. 2

Comes now Lynwood Utility Corporation (Lynwood) and files this Response to Staff Data Request No. 2 in this matter.

While the Staff realizes that TDEC had sued Lynwood for failure to comply with the sewage treatment codes, why was the Authority not informed of the predicament or contacted for pre-approval of the loan?

Response: Enclosed are copies of the Complaint filed by TDEC against Lynwood on May 23, 2002, an Order Granting Temporary Injunction dated December 30, 2002, which enjoined Lynwood from operating the sewage treatment plant in violation of its NPDES permits, and the Consent Order and Dismissal dated June 24, 2004. Tyler Ring and John Ring, who became the sole shareholders of Southern Utility Corporation on January 1, 2003, were not aware that any Authority regulation or order required that the Authority be notified by Lynwood of violations of it NPDES permits. At this time their primary concern and objective was to make the necessary upgrades to the sewage treatment plant to avoid the violation of the temporary injunction and the penalties for any violation. Lynwood focused its energies and resources on satisfying

TDEC, the state agency responsible for seeing that it complied with the terms and conditions of its NPDES permit.

Tyler Ring and John Ring were aware that Lynwood needed to obtain Authority approval of a loan payable more than one year from the date made When they began to make the necessary upgrades to the sewage treatment plant to comply with the injunction and its NPDES permits, the amount needed for compliance was not fully known Therefore, Lynwood entered into a loan agreement with Tennessee Contractors, Inc. for a line of credit in the amount of \$1,250,000 to finance the needed improvements with a maturity date of six months which was renewable at the discretion of the Tennessee Contractors, Inc. Because the maturity date of the line of credit was less than one year, Tyler Ring and John Ring assumed that no approval from the Authority was necessary The note has been renewed and permanent financing is being sought now that almost all of the sewage treatment plant upgrades have been completed. Because the attention of Tyler Ring and John Ring in operating Lynwood were focused almost exclusively on bringing the sewage treatment plant into compliance, they may have failed to make the appropriate inquiry to the Authority about whether a short term note with a renewable provision came within the purview of T.C.A § 65-4-109. There was certainly no intent to mislead the Authority. The violation of TDEC regulations by the Lynwood sewage treatment plant and the pending lawsuit were well-publicized, and Tyler Ring and John Ring were trying their best to respond to these violations and to continue to provide safe and adequate sewer service to Lynwood's customers

2. The Promissory Note is for \$1,250,000 Is that the amount recorded on the balance sheet as a liability or was it \$980,000 that the petition states was used for upgrades?

Response. The Promissory Note of Lynwood to Tennessee Contractors, Inc. was for a line of credit up to an amount of \$1,250,000. Prior to the petition being filed in this matter, Lynwood had borrowed \$980,000 on this line of credit for upgrades to the sewage treatment plant, and this amount is recorded on the balance sheet of Lynwood as a liability.

3. If \$980,000 was recorded, what was done with the difference between \$1,250,000 and the \$980,000 that the petition maintains was used for system improvements?

Response. The difference between the \$1,250,000 authorized line of credit and the \$980,000 recorded is the additional amount which Lynwood had the ability to borrow on the line of credit at the time the petition was filed.

4. Provide a current audited balance sheet and income statement for Lynwood Utility Corporation.

Response: Lynwood has hired James Ford, a financial consultant familiar with public utility accounting, to assist it in the review of its accounts and preparation of its financial statements for the year ended December 31, 2004. Mr. Ford will be meeting on Friday, February 18, 2005, with the accounting firm Lynwood has been using to assist him in finalizing the financial statements for the year ended December 31, 2004. As soon as the financial statements are completed, they will be forwarded to the Authority

Lynwood desires that the financial statements for the year ended December 31, 2004, be in compliance with public utility accounting principles which Mr. Ford is assisting it in preparing. Tyler Ring, John Ring and Mr. Ford are more than willing to meet with the Authority staff upon the submission of the financial statements to discuss them and any other issues related to the petition. Mr. Ford will continue to work with Lynwood in the review of its accounts for the timely submission of Lynwood's 2004 Annual Report with the Authority

5. Are the new owners of Lynwood aware that they are required to get approval of the purchase of the utility? Are they aware that Lynwood is a public utility subject to public utility regulation? Please explain in detail.

Response: Tyler Ring and John Ring were aware that Lynwood was a public utility subject to public utility regulation by the Authority when they became shareholders of Southern Utility Corporation on May 1, 2002. They worked with Davis Lamb, the President of Lynwood, for several months before they became the sole shareholders of Southern Utility Corporation on January 1, 2003. They were aware that the Authority set Lynwood's rates, established the terms and conditions of providing service to Lynwood's customers and that certain reports were to be filed with the Authority.

Southern Utility Corporation is the sole shareholder of the stock of Lynwood. On January 23, 2003, counsel for Lynwood wrote the Authority's General Counsel and requested an opinion as to whether approval of the transfer of the shares of Southern Utility Corporation was required by T C.A. § 65-4-113 and set forth why counsel for

Lynwood thought a question existed about whether any approval was required. No written response was received after a follow up call from counsel for Lynwood. Shortly before this petition was filed, the Authority staff advised Tyler Ring that such approval was required. Therefore, the petition was prepared and filed by Lynwood to obtain the approval of the transfer of all of the shares of Southern Utility Corporation to Tyler Ring and John Ring.

Dated this <u>hhh</u> day of February, 2005.

Respectfully submitted,

DONALD L. SCHOLES BPR# 10102

Branstetter, Kilgore, Stranch & Jennings 227 Second Avenue, North, Fourth Floor

Nashville, TN 37201-1631

(615) 254-8801

Attorney for Lynwood Utility Corporation

ATTACHMENTS TO RESPONSE NO. 1

IN THE CHANCERY COURT FOR THE STATE OF TENNESSEE TWENTIETH JUDICIAL DISTRICT, DAVIDSON COUNTY

STATE OF TENNESSEE, ex rel.
PAUL G. SUMMERS, in his official capacity
as the Attorney General And Reporter of
Tennessee and MILTON H. HAMILTON, JR.
Commissioner of the Tennessee Department of
Environment and Conservation,

Plaintiffs,

SOUTHERN UTILITY CORPORATION, dba LYNNWOOD UTILITY CORPORATION, and DAVIS LAMB,

Defendants.

No. 02-1538-111 123 F1 3:22

VERIFIED COMPLAINT

This action represents a request for injunctive relief and civil penalties under the Water Quality Control Act of 1977, as amended, Tenn Code Ann §§ 69-3-101 to 69-3-137 (WQCA), against defendants Southern Utility Corporation dba Lynnwood Utility Corporation and Davis Lamb The plaintiffs seek from this Court (1) a permanent injunction requiring the defendants to come into compliance with the Act and the regulations thereunder with respect to the operation of their sewage treatment plant in Williamson County, Tennessee, and (2) an order and judgment from this Court assessing civil penalties against defendants, jointly and severally, for water quality violations in accordance with Tenn Code Ann § 69-3-115 In accordance with the Tennessee Supreme Court's decision in City of Chattanooga v Davis and Barrett v Metropolitan Government of Nashville and Davidson County, 54 S W 3d 248 (Tenn 2001), the defendants may be entitled to a jury solely for the purpose of the assessment of any civil penalties by this Court

I. JURISDICTION AND VENUE

- This Court has jurisdiction over this action in accordance with the provisions of Tenn Code Ann §§ 69-3-115 and 69-3-117
- Venue of this action lies in Davidson County in accordance with the provisions of Tenn Code Ann §§ 69-3-115 and 69-3-117

II. PARTIES

- This action is brought in the name of the State of Tennessee by plaintiff, Paul G Summers, in his official capacity as Attorney General and Reporter for the State of Tennessee The Attorney General is the chief law enforcement officer of the State of Tennessee, of all its departments, commissions and agencies Tenn Code Ann §§ 8-6-109 and 8-6-301 The Attorney General also has authority over litigation involving the public interest. The Attorney General's official residence is in Nashville, Davidson County, Tennessee
- This action is also brought in the name of the plaintiff, Milton H Hamilton, Jr, in his official capacity as Commissioner of the Tennessee Department of Environment and Conservation (TDEC) The TDEC Commissioner is charged by Tenn Code Ann §§ 69-3-107 with the duty and responsibility to exercise general supervision and enforcement of the Water Quality Control Act and to bring suit for any violations thereunder. (Attached hereto as Exhibit 1 is the Affidavit and Verification of Christopher S Moran, Enforcement Manager with TDEC Division of Water Pollution Control) The Commissioner's official residence is in Nashville, Davidson County, Tennessee
- Southern Utility Corporation (hereinafter "Southern" or "Lynnwood"), is a domestic corporation doing business in the State of Tennessee, with its principal offices located at 5214 Maryland Way, Suite 405, Brentwood, Tennessee 37027 Upon information and belief, Southern is doing business as Lynnwood Utility Corporation (LUC), having acquired the assets and operating authority of LUC in May 1999 Southern owns and operates a sewage treatment facility at 120 Cottonwood Drive in Franklin, Williamson County, Tennessee that was originally operated under the name of Lynnwood Utility Company The registered agent for service of process of defendant Southern is Jeffrey R. King, 424 Church Street, Suite 1800, Nashville, Tennessee 37219
- Davis Lamb is the president of defendant Southern dba Lynnwood and the operator of Lynnwood's sewage treatment facility at 120 Cottonwood Drive in Franklin,

 Tennessee Upon information and belief, Davis Lamb became the chief executive officer for Lynnwood on or shortly before January 1, 2000 Defendant Lamb can be served at 5214

 Maryland Way, Suite 405, Brentwood, Tennessee 37027
 - 8 Defendants Southern and Lamb are both "person[s]" as defined by Tenn Code

Ann § 69-3-103(20) and "owner[s] or operator[s]" as defined by Tenn Code Ann § 69-3-103(19) for purposes of the WQCA

III. WATER QUALITY CONTROL ACT

- The Federal Water Pollution Control Act, as amended, 33 U S C §§ 1251, et seq (Hereinafter "CWA") requires all entities who discharge into the navigable waters of the United States to obtain a National Pollutant Discharge Elimination System (NPDES) permit from the Environmental Protection Agency (EPA) in accordance with standards set by the Administrator of that agency 33 U S C § 1342(a) The Administrator can, however, authorize a state to issue NPDES permits in her stead if the state permitting program is at least equal to that under the CWA 33 U S C § 1342(b) TDEC has been authorized by the U S EPA to issue NPDES permits in the State of Tennessee Tennessee does so under the Water Quality Control Act of 1977, Tenn Code Ann §§ 69-3-101 to 69-3-137 (WQCA)
- The WQCA represents a comprehensive program for the protection and preservation of the waters of the State and for the regulation of activities affecting discharges into, and/or alterations of, the waters of the State. The General Assembly has declared that the "waters of Tennessee are the property of the state and are held in public trust for the use of the people." Tenn Code Ann § 69-3-102(a). The WQCA further provides that the State, in its exercise of the public trust, has a duty to take necessary steps to preserve and protect the public's right of enjoyment to unpolluted waters.
- The Commissioner is empowered to issue permits authorizing discharges that contain the most stringent effluent limitations, conditions and water quality standards as necessary to comply with state and federal laws and regulations. Tenn. Code Ann. § 69-3-108(e). The Commissioner is also empowered to undertake inspections and investigations as necessary to enforce the provisions of the Act. Tenn. Code Ann. § 69-3-107(5). Additionally, the Commissioner may administratively assess civil penalties of up to \$10,000.00 per day for each day of the violation against persons violating the Act or regulations thereunder, or he may institute proceedings in court for the assessment of such civil penalties. Tenn. Code Ann. § 69-3-115.
 - 12 It is a violation of the Water Quality Control Act for any person to discharge any

substance into the waters of the State, or to cause a substance to be placed in a location that results in pollution, as defined under the Act Tenn Code Ann § 69-3-114

The Commissioner may seek injunctive relief in the courts through the Office of the Attorney General to enforce compliance with the Act Tenn Code Ann § 69-3-117 And under Tenn Code Ann § 69-3-116, the State is entitled to recover as damages any reasonable expenses incurred in enforcing the provisions of the WQCA

IV. FACTS

- On or about July 30, 1993, TDEC issued NPDES permit No 0029718 to
 Lynwood Utility Company authorizing it to discharge effluent, under prescribed limitations, from
 its sewage treatment facility in Franklin, Tennessee into the Harpeth River at mile 77 9 This
 permit expired on July 29, 1998
- At mile 77 9, downstream from Lynnwood's sewage treatment plant outfall, the Harpeth River is classified by Tenn Comp R & Reg, ch 1200-4-4-12 for the following uses by the Tennessee Water Quality Control Board domestic water supply, industrial water supply, fish and aquatic life, recreation, irrigation, and livestock watering and wildlife. Tenn Comp R & Reg, ch 1200-4-3-02(6) provides that since all waters of the state are classified for more than one use, "the most stringent criteria [for the respective classified use] will be applicable."
- Lynnwood's 1993 NPDES permit contained specific effluent limitations for the following characteristics CBOD5 (carbonaceous biochemical oxygen demand), ammonia, suspended solids, fecal coliform, chlorine residual, settleable solids, dissolved oxygen, and pH
- In the spring of 1998, TDEC accepted Lynnwood's plans for a proposed expansion of its sewage treatment facility, which included adding a new clarifier, retrofitting an existing basin to be used as an aeration basin, replacing the influent pump station and replacing the eight inch effluent line to the Harpeth River with a twelve inch gravity line. The first phase of the upgrade to Lynnwood's facility was complete by the fall of 1998.
- On or about July 31, 1998, TDEC reissued NPDES permit No 0029718 to

 Lynwood Utility Corporation (formerly Lynnwood Utility Company) authorizing it to discharge effluent, under prescribed limitations, from its sewage treatment facility in Franklin, Tennessee. Into the Harpeth River at mile 77 9 This permit was set to expire on July 31, 2001

- On September 18, 1998, TDEC issued a Director's Order to Lynnwood citing it for 96 permit parameter violations and 13 incidents of bypassing for the period of July 1995 through June of 1998. Most of these parameter violations consisted of exceeding the limitations for chlorine residual, the monthly average and daily maximum limits for ammonia, and the daily maximum limits for fecal coliform.
- In accordance with Lynnwood's 1998 NPDES permit, the plant's design capacity was reduced from 250,000 to 200,000 gallons per day and the following effluent modifications were placed upon the discharge from Lynnwood's sewage treatment plant
 - a **CBOD5** the monthly and weekly average amount limits were decreased from 21 and 31 (lbs per day) to 17 and 25 respectively,
 - b Ammonia the monthly and weekly average amount limits for May-Oct and Nov -April were decreased from 4 and 6 and 10 and 16 (lbs per day) to 3 and 5 and 8 and 13 respectively,
 - Suspended Solids the monthly and weekly average amount limits were decreased from 63 and 83 (lbs per day) to 50 and 67 respectively,
 - d Settleable Solids the sampling rate was decreased from five times a week to three times a week and the sampling method was changed from a grab to composite sample

Lynnwood's 1998 NPDES permit also contained effluent limitations for fecal coliform, chlorine residual, dissolved oxygen, and pH

- In September 1998, Lynnwood applied to TDEC to increase the design flow capacity for its sewage treatment plant from 200,000 to 400,000 gallons per day, based on the continued expansion and upgrading of its facility. This second phase of the expansion and upgrade was intended to enable Lynnwood to provide sewer service for new construction, as well as existing homes with septic tanks in the area.
- In May 1999, after holding a public hearing on the permit expansion, TDEC issued a modified permit to Lynnwood for the period May 14, 1999 through July 31, 2001. This permit included maintenance of most of the existing concentration and loading limits with flow capacity of 200,000 gallons per day until such time as the plant's expansion was complete, or for the period of May 14, 1999 to May 31, 2000. The same permit provided for the expansion to

400,000 gallons per day to begin June 1, 2000, after which the permit contained modifications to the concentration and loading limits up through July 31, 2001

- The modified permit issued to Lynnwood in May 1999 included the institution of effluent limits on total nitrogen (N) beginning June 1, 2000 with the plant's anticipated expansion. In June 1999, Lynnwood initiated discussions with TDEC's Division of Water Pollution Control to modify the permit's nitrogen limits. Defendant Lamb participated in discussions and meetings with TDEC on the necessity of nitrogen limits. This issue was resolved in the fall of 2000, when TDEC issued Lynnwood a modified permit with total nitrogen limits of 3 mg/l as a monthly average, 4.5 mg/l as a weekly average and 6 mg/l as a daily maximum in effect only for the summer season (May 1 October 31). As a result, Lynnwood was not required to begin reporting total nitrogen results until May 1, 2001.
- Between July 1, 1998 and December 31, 1998, Lynnwood had 60 permit parameter violations (in the NPDES permit expiring on July 31, 1998 and the permit resissued on August 1, 1998) and one bypass event. In July 1998, alone, Lynnwood had 50 violations of its permit, including 14 for total suspended solids, 14 for ammonia, 10 for fecal coliform, eight for CBOD, three for chlorine residual and one for settleable solids. *See* Affidavit of Michael R. Thornton and summaries attached hereto as Exhibit 2.
- On October 30, 1998, TDEC issued Lynnwood a Notice of Violation for parameter violations of its permit limits in July, August, and September, 1998, and a bypass of its treatment in September
- In 1999, Lynnwood had 31 permit parameter violations (in the NPDES permit issued on August 1, 1998, and the permit reissued on May 14, 1999). These violations occurred primarily between May 1, 1999 and July 31, 1999, and consisted mostly of ammonia parameter violations. See Affidavit of Michael R. Thornton and summaries attached hereto as Exhibit 2.
- On January 11, 2000, TDEC issued Lynnwood a Notice of Violation for parameter violations of its permit limits in February, June, July and November, 1999 This notice was sent to Davis Lamb as president of LUC
- In 2000, Lynnwood had 40 permit parameter violations (in the NPDES permit reissued on May 14, 1999) These violations occurred primarily in April, May, November and December, and consisted mostly of total suspended solids and ammonia parameter violations

See Affidavit of Michael R Thornton and summaries attached hereto as Exhibit 2

- 29 On May 9, 2001, TDEC issued Lynnwood a Notice of Violation for parameter violations of its permit limits in 2000 This notice was sent to Davis Lamb as president of LUC
- In 2001, Lynnwood had 92 permit parameter violations (in the NPDES permit reissued on May 14, 1999) and three bypass events. In January, 2001, alone, Lynnwood violated its monthly and weekly average concentration and loading limits, as well as its daily maximum limit for ammonia on at least 24 days and it had two bypass events that month. Multiple violations of the ammonia and total nitrogen limits also occurred in the months of August, September and October, 2001. See Affidavit of Michael R. Thornton and summaries attached hereto as Exhibit 2.
- On August 8, 2001, TDEC issued Lynnwood a Notice of Violation for permit parameter violations and one bypass occurring between January and April, 2001 On March 15, 2002, TDEC issued Lynnwood a Notice of Violation for permit parameter violations for the period of August, 2001 through February 2002. Both of these notices were sent to Davis Lamb as president of LUC
- Between January 1, 2002 and April 30, 2002, Lynnwood had at least seven permit parameter violations (in the NPDES permit reissued May 14, 1999) and two bypass events. In January 2002, Lynnwood had one violation of its daily maximum for fecal coliform and in March 2002, Lynnwood violated the 1 0 ml/L maximum daily limit for settleable solids on at least five days, and violated the 20 mg/l maximum daily limit for CBOD on at least one day. See

 Affidavit of Michael R. Thornton and summaries attached hereto as Exhibit 2
- Despite upgrading and expanding the Lynnwood sewage treatment facility, defendants have consistently exceeded the maximum monthly and weekly average and maximum daily ammonia limits imposed upon it in its NPDES permits. Examination of the discharge monitoring reports and the monthly operation reports indicates that the ammonia parameters were exceeded for the following months.

July 1998 14 violations
June 1999 8 violations
July 1999 17 violations
December 2000 21 violations
January 2001 24 violation
February 2001 1 violation
August 2001 6 violations

September 2001 October 2001 10 violations 2 violations

Despite upgrading and expanding Lynnwood's sewage treatment facility and prevailing with TDEC in 2000 to apply the total nitrogen limits in its permit only to the summer period of May through October, defendants have consistently exceeded the maximum monthly and weekly average and maximum daily total nitrogen limits imposed upon it in its NPDES permit beginning May 1, 2001. Examination of the discharge monitoring reports and the monthly operation reports indicates that the total nitrogen parameters were exceeded for the following months.

May 2001	3 violations
June 2001	1 violation
August 2001	6 violations
September 2001	13 violations
October 2001	10 violations

Lynnwood timely submitted an application to renew its NPDES permit, which expired on July 31, 2001 TDEC is in the process of reviewing that application

V. FIRST CAUSE OF ACTION

Lynnwood has failed to meet the effluent parameters and conditions contained in its consecutive NPDES permits, since the Department issued Lynnwood a Director's Order in 1998 for violations of its 1993 NPDES permit, as detailed in ¶ 24-34 above Defendants have continually failed to discharge in accordance with these parameters, despite repeated notices of violation from the State and they are therefore in violation of the NPDES permits issued pursuant to Tenn Code Ann § 69-3-108 In accordance with Tenn Code Ann § 69-3-117, this Court is authorized to issue a permanent injunction against defendants requiring them to comply with the provisions of the WQCA, the regulations thereunder, and the conditions of the NPDES permits issued to Lynnwood pursuant to Tenn Code Ann § 69-3-108

VI. SECOND CAUSE OF ACTION

Defendants' effluent discharge from their sewage treatment plant into the Harpeth River exceeded limits contained in their NPDES permits for such discharges on numerous

occasions, as detailed in ¶¶ 24-34 above, and has resulted in multiple violations of the conditions of their permits issued under Tenn Code Ann § 69-3-108. In accordance with Tenn Code Ann §§ 69-3-115(a)(1) (A) and (B) and 69-3-115(a)(2)(D), this Court may impose a civil penalty of up to \$10,000 00 per day for each day any person violates an effluent or water quality standard promulgated under the WQCA, or a permit condition. Defendants are therefore subject to a civil penalty assessment of up to \$10,000 00 per day for each day of such violation.

VII. THIRD CAUSE OF ACTION

- In accordance with the provisions of Tenn Code Ann § 69-3-114(a), it is unlawful to discharge any substance into the waters of the State of Tennessee so as to cause a condition of pollution, as defined in Tenn Code Ann § 69-3-103(22) Any such action is declared a public nuisance
- Defendants' actions in repeatedly discharging effluent from their sewage treatment plant into the Harpeth River in excess of the limits contained in their NPDES permits so as to result, or be likely to result, in potential harm to the public health or the health of aquatic life, to render the Harpeth River substantially less useful for its reasonable classified uses, or to leave the Harpeth River in a condition that violates the water quality standards established for the river constitute, therefore, a public nuisance that may be abated by the action of this Court

VIII. FOURTH CAUSE OF ACTION

- In accordance with the provisions of Tenn Code Ann § 69-3-114(a), it is unlawful for any person to discharge any substance into the waters of the State of Tennessee so as to cause a condition of pollution, as defined in Tenn Code Ann § 69-3-103(22), unless such discharge is due to unavoidable accident or unless the discharge has been properly authorized
- Defendants' actions in repeatedly discharging effluent from their sewage treatment plant into the Harpeth River with concentrations of pollutants in amounts exceeding the limits contained in their NPDES permits, as detailed in ¶¶ 24-34 above, has contributed to the pollution of the waters of the state and is neither due to unavoidable accident nor has it been

properly authorized These unpermitted discharges constitute unauthorized alterations of the waters of the state in violation of Tenn Code Ann § 69-3-108(b) Defendants' unauthorized excessive discharges have impacted and continue to impact waters of the state, which are held in trust for the public

In accordance with Tenn Code Ann §§ 69-3-115(a)(1) (H) and 69-3-115(a)(2)(D), this Court may impose a civil penalty of up to \$10,000 00 per day for each day any person violates the WQCA by causing or contributing to the pollution of the waters of the state Defendants are therefore subject to a civil penalty assessment of up to \$10,000 00 per day for each day of such violation

IX. FIFTH CAUSE OF ACTION

- The State of Tennessee has incurred damages, investigatory expenses and enforcement expenses, including attorney's fees, in responding to the violations of the WQCA committed by defendants
- In accordance with Tenn Code Ann § 69-3-116(c), damages may be assessed by this Court against any polluter or violator for "any expenses incurred in investigating and enforcing this part"

XI. PRAYER FOR RELIEF

WHEREFORE, plaintiffs respectfully request the following relief

- That this complaint be filed without cost bond, as provided by Tenn Code Ann § 20-13-101, and that process issue and be served upon defendants requiring them to appear and answer this complaint
- That upon a trial or final hearing in this matter, the Court enter judgment for the plaintiffs against defendants jointly and severally and assess civil penalties in an amount not to exceed \$10,000 00 per day for each violation, in accordance with Tenn Code Ann § 69-3-115, against defendants jointly and severally for violations of the Water Quality Control Act and the regulations promulgated pursuant to the WQCA.

- That upon a trial or final hearing in this matter, the Court issue a permanent injunction against all defendants, in accordance with Tenn-Code Ann § 69-3-117, requiring each of them to comply with, and enjoining them from further violations of, the provisions of the WQCA and the rules promulgated thereunder, as well as their current and any future NPDES permits issued to them in the State of Tennessee
- That this Court assess post-judgment interest against defendants in accordance with Tenn Code Ann §§ 47-14-121 and 47-14-122 until the judgment against defendants is paid in full, for which execution may issue if necessary
- That this Court award plaintiffs such costs, including, but not limited to, reasonable expenses incurred in investigation, compliance examination, enforcement, as well as attorneys' fees, that may be taxable by law for defendants' water quality violations, as provided by Tenn Code Ann § 69-3-116(c)
- 7 That this Court award plaintiffs such other general and equitable relief to which they may be entitled

Respectfully submitted,

PAUL G SUMMERS (# 6285) Attorney General and Reporter

,

ELIZABETH P McCARTER (#10531)

Senior Counsel

Office of the Attorney General and Reporter

Environmental Division

P O Box 20207

Nashville, Tennessee 37202

(615) 532-2582

IN THE CHANCERY COURT FOR THE STATE OF TENNESSEE TWENTIETH JUDICIAL DISTRICT, DAVIDSON COUNTY

STATE OF TENNESSEE, ex rel. PAUL G. SUMMERS, in his official capacity as the Attorney General And Reporter of Tennessee and MILTON H. HAMILTON, JR. Commissioner of the Tennessee Department of Environment and Conservation,))))	100 pt 23 pt
Plaintiffs,))	32
v.)) No.	6
SOUTHERN UTILITY CORPORATION, dba LYNNWOOD UTILITY CORPORATION, and DAVIS LAMB,)	3
Defendants.) 	
VERIFICATION OF O	COMPLAINT	

STATE OF TENNESSEE)
COUNTY OF DAVIDSON)

- I, Christopher S Moran, after being duly sworn, do hereby depose and, upon personal knowledge, state as follows
- I am the manager of the enforcement and compliance section in the Division of Water Pollution Control (Division) in the Tennessee Department of Environment and Conservation (TDEC) I have been employed with TDEC for over eight years in the Water Pollution Control Division
- 2 I am familiar with the facts giving rise to this lawsuit insofar as they concern water quality issues. I have reviewed (and signed some) of the notices of violation that were issued to defendants concerning violations of the effluent parameters contained in their NPDES permits and their plant's bypassing of treatment. I have read the allegations contained in the foregoing complaint and believe the allegations concerning water quality issues and violations of the Water Quality Control Act to be true to the best of my knowledge, information and belief
- Based on my education and experience and the information obtained by the Department in the course of its investigation and inspections of defendants' sewage treatment.

requires that this action be commenced, therefore, I have requested the Attorney General to bring this amended action

FURTHER THE AFFIANT SAITH NOT

CHRISTOPHER S MORAN

Sworn to and subscribed before me

this <u>23</u> day of <u>May</u>, 2002

NOTARY PUBLIC

My Commission Expires 2-20-206

IN THE CHANCERY COURT FOR THE STATE OF TENNESSEE TWENTIETH JUDICIAL DISTRICT, DAVIDSON COUNTY

STATE OF TENNESSEE, ex rel.

PAUL G. SUMMERS, in his official capacity
as the Attorney General And Reporter of
Tennessee and MILTON H. HAMILTON, JR.
Commissioner of the Tennessee Department of
Environment and Conservation,

Plaintiffs,

v.

No.

SOUTHERN UTILITY CORPORATION,
dba LYNNWOOD UTILITY CORPORATION,
and DAVIS LAMB,

Defendants.

AFFIDAVIT OF MICHAEL R. THORNTON

STATE OF TENNESSEE)
COUNTY OF DAVIDSON)

- I, Michael R Thornton , after being duly sworn, do hereby depose and, upon personal knowledge, state as follows
- I am employed as an Environmental Protection Specialist in the Division of Water Pollution Control in the Tennessee Department of Environment and Conservation (TDEC) I have been employed with TDEC for over twenty-two years in the Water Pollution Control Division
- In my present position I am responsible for checking and enforcing compliance with standards and requirements of the Water Quality Control Act, set forth in Tenn. Code Ann § 69-3-101, et seq. This includes conducting inspections and reviewing monitoring reports to confirm compliance with limits set out in National Pollution Discharge Elimination System (NPDES) permits
- I have reviewed the discharge monitoring reports and monthly operational reports submitted by Lynnwood Utility Corporation, as required under its NPDES permits, for the period

July 1, 1998 through April 30, 2002 Attached hereto are my summaries of what those reports reflect, including permit parameter violations for the same time period

FURTHER THE AFFIANT SAITH NOT

MICHAEL R THORNTON

Sworn to and subscribed before me

this 23 day of May, 2002

NOTARÝ PUBLIC

My Commission Expires

LISA McCREARY lotary Public, Sumner Co., TN ly Comm. Expires Oct. 2, 2005

Figure F	Facility	Lynnwood Utility Corp	ıty Corp		1	Parmit #	TN0029718	ç	.a .	Expiration Date	07/29/98	07/31/01
Figure 1 Figure 2 Figure 3						Capacity	0.25/0.20 19/2	5	u	Tective Date	200010	000
	Month	Fłow	Flow	Flow	BOD/CBOD	ворисвор	ворисвор	вовисвов	ворисвор	BOD/CBOD	вор/свор	ворисвор
Secondary Control Co	1998	Inf Mo Avg	Inf Dally Max	Eff Mo Avg	Inf Mo Avg	Eff Mo Avg	wk avg max conc	Eff Dally Max	eff mo avg loading	wk avg max loading	min % removal	аvg % гетоvа
19 19 19 19 19 19 19 19		MGD	-wgp	MGD	mg/L			- 1			%	%
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(2012年代) (2012年代表) (2012年代表) (2010年代本) (2010年年代本) (2010年代本) (2010年年代本) (2010年代本	Mar	0 129		0 110	180	-82			83	66	914	95 4
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19	Jul		0 178		+	12.9 1		50.0	12.9	26.7		92.3
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Summer May - October Winter November - April Limit - Limit (Fequency) sample type F - Monitoring frequency violation(s) - Permit resisuance 8/1/198 Annonia An	Winter I Imits	Renort (7Avk) c		Report (7/wk) c	(Ahah)	. 01	45	(20,45)	ш.	. 24726	40	96
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Lind No Avg	Month		Ammonla	Ammonia	Ammonia	Ammonta	Ammonia	Sett Salids	Sett Solids			
mg/L mg/L no V/o no V	1998	Inf Mo Avg	Eff Mo Avg	wk avg max conc	Eff Daily Max	mo avg loading	wk avg max loading	Inf Mo Avg	Eff Dally Max	Sample I	ype	
8		mg/L	- 1					mD/L		c - continu	snor	
19	Jan					86	1 6 21	11.5	20	C - compc	site	
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206 i 259 5 328 i3 231 i 312 5 164 03 (207 208 1 239 4-27 13(2 294 2 1 1319 242 2 165 30 1 1 1319 242 2 165 30 1 1 1319 242 2 165 30 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1	Apr		122 121		8 5.7			15.7				
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(2) (2) (3) (3) (3) (4) (4) (4) (5) (5) (4) (5) (5) (5) (5) (5) (5) (5) (5) (5) (5	Sep			0.1	:			2004				
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#DVIOL 65 262 328 68 319 894 300 #DVIOL 65 262 328 68 319 894 300 NA 20 30 40 (3wk) C *4 0/30 *6 0/50 NA 10 (**)** NA 50 75 100 (3wk) C *10 0/80 *16 0/130 NA 10 (**)** Lynnwood Utility Corp ##DVIOL 65 262 328 68 68 319 894 300 ##DVIOL 65 300 NA 10 (**)** ##DVIOL 65 300	Dec	The state of the s	1	1	17.5			2023	100	;		
#DIVIOI 65 262 328 68 319 894 300 NA 20 30 40 (3/wk) C*40/30 *60/50 NA 10 (**)**********************************		35 F. L. C. C.	Ш	1				0 \$51	-00-			
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NA 50 75 100 (304k) C 110 080 18 0/130 NA 10 ("")**	ummer Limits	NA	20	3.0	(3/wk) C		.6 0/5 0	Ϋ́		- moniton	ng frequency from	5/wk to 3/wk
Lynnwood Utility Corp Fermit# TN0029718 Expiration Discourse Williamson Fermit# TO 26/0.20 M/GD Expiration Discourse	Winter Limits	NA	5.0	7.5	(3/wk) C	10 0/8 0	16 0/13 0	Ą		- sample	ype from grab to o	composite
Lynnwood Utility Corp Permit# TN0029718 Expiration Date Williamson Canaria 10.25/10.20 M/GD Essents to a second to a seco	Imit Violations		5	18		4	13		-			
Lynnwood Utility Corp Permit TN0029718 Expiration Date Williamson 10000 Effective Date	Freq Violations				-							
Williamson • 0.25/0.20 MGD Effection Date	ŀ	Lynnwood Utility	y Corp			Permit #	TN0029718		Š	niration Date	07/29/98	07/31/01
	County	Williamson					* 0 25/0 20 MG	G		Effective Date	07/30/93	08/01/98

40.01	756	158	TSS	155	TSS	TSS	TSS	TSS	MOR	BYPASS
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3	ljou.	mo/L no Vio	ma/L no Vio	mg/L no Vio	lbs no Vio	lbs no Vio	% no Vio	% no Via	N/ >	hours
1	158		55.3 3	640 8	56 1	70.4	368 1	72.4 1	٨	- 1
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Ę		55.2 1	843 2	2140 7	57 1	87.7 1	-55 1 2	70.5		
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Sen		7.4	150-	29 0	- 62	153.	99.3	99.7		17.0
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Nov	3595	6.7	9.7	140	7.9	126	940	98.8	>	Carrier of the Arms of
Dec	(新元3337年)	10	河572至北京	(170%)。14起北	1 17 6 25 2 24 9 3	\$24'9 G \\\\\\\\\\\\\\\\\\\\\\\\\\\\\\\\\\\	90.4 5.1.1.24	997. 57.73	" Cles	Sec. 10.14.14.15.15.15.15.15.15.15.15.15.15.15.15.15.
Average		35 7	1143	2140	417	208 8	0.0	816	9	24.5
Summer Limits Report	Report (3/wk) C	30	40	45 (3/wk) C	* 63/50	- 83/67	40	85		
Winter Limits	Report (3/wk) C	30	40	45 (3/wk) C	• 63/50	* 83/67	40	85		
Limit Violations		7	23	51	3	9	12	7		
Freq Violations	-			L						
	Summer May Oc	October Winter	November - April	Limits - Limit (frequency) sample type	ency) sample type	F - Monitoring frequency violation(s)	ency violation(s)	• - Permit reissuance 8/1/1998	ce 8/1/1998	
		1	7	Foral	Fecal	Chlorine				

1998	Eff Daily Min	Eff Dally Min	Eff Dally Max	Eff Geo Mean	Eff Dally Max	Eff Dally Max	Sample Type
	mg/L no Via	standard units	standard units		col / 100 mL coursonme no Vio mg/L no Vio	mg/L no Vio	c - continuons
Jan 7	7.3	69	7.4	12	4700 2 155	155 6	C - composite
Feb	73- 11 4	69	722 B. Oak	73年 204 69 1101 772 2 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1	425 (1-1)	190. '*8	G - grab
Mar	7.0	9 9	7.0	112	6000 4	140 6	
		6.6	969	AAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAA	121000 F/12	1 90 7	

Month	8	Hd	H.	Fecal	Fecal	Chlorine	
1998	Eff Daily Min	Eff Dally Min	Eff Dally Max	Eff Geo Mean	Eff Dally Max	Eff Dally Max	Samp
	mg/L no Via	standard units	standard units	col / 100 mL	cal/100 ml. No Vio	mg/L no Vio	00-0
Jan	73	69	7.4	12	4700 2	155 6	ပ်
Feb	735 11 45	69	122 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1	高端1141年 8 5	,425 St	.190. '8"	9-9
Mar	7.0	99	2.0	112	6000 4	140 6	
Apr	99	99	13. 69¢	67 - Fall Light 19	210007 1712	.1 90	
May	0.9	99	7.0	274 1	49000 6	135 3	
Jun	:35.1.74		3,7,6,9,7	1. 1. 1. 20598 C 7. 11 F. F.	350000 11	£0 15 3	
Jul	60 F1	99	70 F1	1907 1	102000 9	2 00 3 F1	
Aug	68	63	282	43 - 1555 - 54	5 1885 1174 52400 5132 FT	070 2	
Sep	7.8	6.5	85	S	24	0.20 2	
000	78	7.1		种。228 美国政策沿河上市	₹ 372 . he	10.03	
Nov	8.9	7.3	86	7	28	0 03	
1	(92 1.2)	83	90 CF TF F	\$300 LET 1	第12章 []	0.65	
Average	35	63	9.0	1920	350000	2 00	
Summer Limits	6 0 (5/wk) G	0.9	90 (5/wk) G	200	1000 (3/wk) G	0 03 (5/wk) G	
Winter Limits	60 (5/wk) G	9.0	90 (5/wk) G	200	1000 (3/wk) G	0 03 (5/wk) G	
Limit Violations	7			3	36	41	
Fred Violations	,		1		-	-	

85 85 85 85 85 85 85 85 85 85 85 85 85 8		wk ang mar toadlog pounds by pounds by	OOO S S S S S S S S S S S S S S S S S S			30 31 31 10 10 10 10 10 Anumonta mo avg loading lbs no Vio 0 30 0 17 0 17 0 17 0 17 0 17 0 17 0 17 0 1	mo a mo a lbs of the l	Linuis - Linut (frequency Ammonia Linuis - Linut (frequency Ammonia Linuis - Linut (frequency Color Linuis Lin	73 73 minoria ng max conc no vio 12 × 1 × 2 13 3 3	Vunter November April Munder April Annonia Annon	Munier November - April
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	C - composite		0.01	15.2	0.57		0 30	F1	0.50 F1	023 050 F1	023 050 F1
	c - continuous		mVL	mVL	- 1		1	no Vio lbs	no Vio mg/L no Vio lbs	no Vio mg/L no Vio mg/L no Vio lbs	mg/L na Vio mg/L no Vio mg/L na Vio ibs
	Sample Type		Eff Dally Max	Inf Mo Avg	wk avg max loading	_	mo avg loading		avg max conc Eff Dally Max	wk avg max conc Eff Dally Max	Eff Mo Avg wk avg max conc Eff Daily Max
			Sett Solids	Sett Solids	Ammonia	Г	Ammonta		Ammonia	Ammonla Ammonla	Ammonia Ammonia
•				ency violation(s)	F - Monitoring freque	ا ہ	ency) sample typ	Limits - Limit (frequency) sample typ	November - Apri Limits - Limit (frequency) sample type	Winter November - April	Winter November - April
				1				1	73 1	73 1	7.3 1
										1	1
85	40	25	17	1 1	15	П					
85	40	25	17	1 1	15	П	10	(3/wk) C	c Report (3/wk) C	Report (7/wk) c Report (3/wk) C	Report (7/wk) c Report (3/wk) C
988	958	94	39	140	6.7	П	10	(3/wk) C	c Report (3/wk) C	Report (7/wk) c Report (3/wk) C Report (7/wk) c Report (3/wk) C	c Report Report (7/wk) c Report (3/wk) C
10	7 26		13.4	- 1		91	3.1 10 10	3 (3/wk) C (3/wk) C	0 151 298 ort (7/wk) c Report (3/wk) C ort (7/wk) c Report (3/wk) C	0 151 298 Report (7/wk) c Report (3/wk) C Report (7/wk) c Report (3/wk) C	c Report Report (7/wk) c Report (3/wk) C C Report (7/wk) c Report (3/wk) C
986	98.5	36	3.4	30	30		31 31 10 10	(3/wk) C	Out of Service F.34 27 2201 2 228 0 151 288 Report (7/wk) c Report (3/wk) C Report (3/wk) C	Out of Service F.34 29/2301 1 2/2 2/2 2/2 2/2 2/2 2/2 2/2 2/2 2/2	(Report Report (TWK) C Report (3WK) C Report (3W
ς,	1. 1. 1. 197 B. 2 1. F.	340		40.4	1. E & 34. 5. 74.		30 31 31 10 10	3 (3/wk) C	0 096 F24 219 Out of Service F34 2261 (14) (4) (4) (4) (4) (4) (4) (4) (4) (4) (0.096 F24 219 0.16/Seřvice F31、完全201、元年 安全 0.151 298 Report (7/wk) c Report (3/wk) C	0 151 0 096 F24 219 (公司 0015) (公司 0
98.7	0 86	36	3.4	30		- 42	30 30 30 31 10 10	37wk) C	0.006 F24 219 0.006 F24 219 0.006 F24 219 0.001 ol. Service F31 2.22 219 0.01 ol. Service F31 2.22 20 0.151 2.00 0.151 2.	0 151 0 096 F24 219 16 6 219 16 6 219 0 096 F24 219 219 16 6 219 0 096 F24 219 219 219 219 219 219 219 219 219 219	1995 1995
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	958	144		40 A V V V		15 to		WK O O O	0 152 371 (1975) 371 (1975)	0 395 0 162 371 (154 0 1475 元 0 145 305 305 305 305 305 305 305 305 305 30	10 395
	્રૈ _ન ્ે-98∙6)મુંત્વર્ગ 95 8	l	46	30		海 海 短 四		(4) (5) (5) (6) (7) (7) (7) (7) (7) (7) (7) (7) (7) (7	(15年 10 148 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1	(1) 152(1) 152(1) 153	(2) (146) (255年 (2) (146) (45) (45) (45) (45) (45) (45) (45) (45
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avg % removal		wk avg max foading	off mo avg loading	Eff Daily Max				14 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0	MGD mgt. 0 216 192 F1 9 260 172 25 E1 424 424 0 176 425 0 152 0 153 0 135 0 135 0 135 0 136 0 136 0 136 0 137 0 138 0 139 0 139 0 139 0 139 0 139 0 139 0 139 0 140 1 208 Report (7MK) C Report (3MK) C	MGD MGD mgL 0 631 0 216 192 F1 0 447 0 172 2 7 7 7 7 7 7 7 7 7 7 7 7 7 7 7 7 7	MicD MicD mg/L
ворисвор			BODICBOD		¥ (£)	1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1		MW (W M)	##GD Inf Mo Avg Eff Mo Avg	NGD NAX Eff Mo Avg Inf Mo Avg Eff No Co 631	Inf Bally Max
05/14/99		BOD/CBOD		ворисвор	55-1	1		00 00 (ww)	Flow BOD/CBOD BOD	Flow Flow BODICBOD BODIC	Flow Flow Flow BODICBOD
		Effective Date BOD/CBOD		ворсвор	이	0 P		00 O O O O O O O O O O O O O O O O O O	Flow BODICBOD BG	Filow Filow BODICBOD BOD	Flow Flow BODICBOD BODIC

	;	Jet I booman	a co			Permit #	TN0029718			Expiration Date	07/31/01	6
## 1755 175	Facility County	Williamson	dipo 6			, - ,	20 MGD			Effective Date	08/01/98	S
Fig. 18 Fig. 2 Fig. 2 Fig. 2 Fig. 3 Fig. 3 Fig. 2 Fig. 3	•						4	100	155	MOR	BYPASS	
Fig. 12 Fig.	Month	155	+ TSS	TSS	3	280	CCI	min % removal	avg % removal	LATE	OVERFLOW	
### 1 ### 1	1999	Inf Mo Avg	Eff Mo Avg	wk avg max conc	Eff Dally Max	Runner five out us	speniod	*	*	N/A	# &JOR HR	
8		mg/L	mg/L	mg/L	ug Aio	44.0	20.3	93.2	95 1			
19 19 19 19 19 19 19 19	Jan	189 F1	7	- I	150	31 2 4- 10 Fr 5		1	7 - 1 66 th	1 1 2 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1		
1992 1992 1993 1993 1993 1994 1995	Feb	J. 5377.	7		104 0 37 117 117	150000000	- 1	1	8 66			
10.3	Mar	4701	-	117	18.0	ALL	0.17	1	1-1-1-10 00 Wall	で 行い 情味 できる	١,	
10.3	Apr	/各7421至上泽州	7°-in	.70	100 - FEFT STR	J. P. C.	3 " " 5 4 " " " 13 -	ri L	800			
1992	May	5485	103	ì	18 0'	103	15.4	- 11	3	AT ATTOMOS		
19 19 19 19 19 19 19 19	Jun	F-13968 - 4"	242 (5) 新元	٠.	3110年最近	(F. 1.45 0 F. F.)	- 15.182 . E.		2	5		
64	101	4357	30	3.7	7.0	3.4	44	97.5	8.68		金のことのはなるか	
6 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1	200	27 1824 AAC 37 19	340534 4 FEB.	١.		(2) (1) (1) (1) (1) (1) (1) (1) (1) (1) (1	1. 1. 18 6 7 2 C	16.96 4 VV-7	1. 1.98 Z. Ar.		1 2 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1	
Second S	Sinc Sinc	338	5.4	83	10 0	86	9.8		98 4	1		
6 9 8 9 8 8 8 8 8 8 8 8 8 8 8 8 8 8 8 8	dae	1000 Park		8.8	3130 年 計	69			2 96 4		2	
1	į į	210 240	5.8	80	0.6	99	93		- 1			
1	200	C12	Selection of the select	106	740 S.F.	Party Take	175/L 82/22			3		
1 1 1 1 1 40 100 100 100 100 100 100 100	og .	- 27 TYPE				8.9	37.3	78.8	98 5	0	0	_
30 40 45 (34Mk) C 50 67 40 40 45 (34Mk) C 50 67 40 67 40 45 (34Mk) C 50 67 40 40 45 (34Mk) C 50 67 67 67 67 67 67 67 67 67 67 67 67 67	Average	2728		32.0				Q¥	85			
1	Summer Limits	Report (3/wk) C		40	(3/wk)	50	67	40	3			
## 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1	Winter Limits	Report (3/wk) C		40	(3/wk)	50	67	40	85			
## Def Winter November April Limits - Limit (frequency) sample type F - Monitoring frequency violation(s) pH pH Feeal Chlorine Standard units standard units eff Daily Max (ed. 100 mL earnemt no Vio mg/L no Vio Chlorine Standard units standard units (ed. 100 mL earnemt no Vio mg/L no Vio Chlorine Standard units standard units (ed. 100 mL earnemt no Vio mg/L no Vio Chlorine Standard units (ed. 100 mL earnemt no Vio mg/L no Vio Chlorine Standard units (ed. 100 mL earnemt no Vio mg/L no Vio Chlorine Standard units (ed. 100 mL earnemt no Vio mg/L no Vio Chlorine Standard units (ed. 100 mL earnemt no Vio Chlorine Standard units (ed. 100 mL earnemt no Vio Chlorine Standard units (ed. 100 mL earnemt no Vio Chlorine Standard units (ed. 100 mL earnemt no Vio Chlorine Standard units (ed. 100 mL ed. 100 mL ed. 100 mL earnemt no Vio Chlorine Standard units (ed. 100 mL ed. 100	model along				1							_
Month Do	רווווי אווויאור				-							_
Honth Honth May Occupation PH Fecal Fecal Chlorine Summer Limits May Occupations Standard units	Fred Violations	- Committee	1	November - April	Limits - Limit (frequ	ency) sample type	F - Monitoring frequ	sency violation(s)	• - Permit reissu	ance 5/14/2001		
Month DO		Summer May -	ľ	7	Forsi	Fecal	Chlorine					
1999 Eff Daily Mills Ef	Month	0 2	1 d	F# Daily Max	Eff Geo Mean	Eff Dally Max	Eff Dally Max	σ 	ample Type			
Jan 9.18 1.003	6661	En Dawy mill	ctandard units	standard units	col / 100 mL	cal/100 mt. no Vio	mg/L no Vio	0	- continuons			
Feb		mgr.	2000	8.9	2	ı	0 03	<u>ن</u>	- composite			
Nat	Jan	5 6 6 6 6 6 6 6 6 6 6 6 6 6 6 6 6 6 6 6	00		1	9.		9	- grab			
Mar	gal :	77,	000			i	0 02					
April 7 B (3) 7 B (3) 7 B (3) 2 D (4) 9 D (3) 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0	Mar	200	1;-	77.7.	27,	n . ₹ 0€:	-100					
May	ă.	100 2	1	7.8		06	0 03					
Jul 66 72 76 3 119 002 Aug 7-69 % % 72 75 76 3 119 002 Sep 74 75 80 2 2 2 003 Oct 77 80 2 2 2 003 Nov 87 69 77 14 14500 2 003 Average 66 61 90 5 14500 2 003 7 Summer Limits 60 (5vxk) 6 '90 (5vxk) 6 '008 (5vxk) 90 5 14500 055 Winter Limits 60 (5vxk) 6 '008 (5vxk) 90 (85 (5vxk) 200 1000 (3vxk) 6 '03 (5vxk) Viniter Limits 60 (5vxk) 6 '008 (5vxk) 20 (85 (5vxk) 20 (85 (5vxk) 20 (100 (3vxk) 6 (103 (5vxk) Freq violations 2 1 1 1 1	May	0 - B	Ι.	1,8,1	<u> </u> ;,	l l						
Aug (**6 9 \), (**5 \) (**6 9 \), (**5 \) (**5 \) (**7 \) (**7 \) (**7 \) (**7 \) (**7 \) (**7 \) (**7 \) (**7 \) (**1	3	99	ì	97	L	119	0 02					
Supplementary Supplementar	200	2.5 (086)	V87, 17 12	١.	7-	2 1. 1. 1. 1. 1.	0 02 /				,	
Oct 17 (84 %) 17 (14 %) 14 (15 %) 14 (14 %) 0.03 Nov 8 7 (84 %) 17 (14 %) 14 (14 %) 2 (05 %) 15 (05 %) 0.03 Average 6 6 (5 km/s) 6 1 (1 km/s) 9 0 (10 km/s) 5 (14 km/s) 14 km/s 0.03 (14 km/s) Summer Limits 6 (5 km/s) G '50 km/s 9 0 (85 (5 km/s)) 2 00 (85 (5 km/s)) 2 00 (3 km/s) 3 00 (3 km/s) 3 00 (3 km/s) 3 km/s Winter Limits 6 (5 km/s) G '50 km/s 9 0 (85 (5 km/s)) 2 00 (3 km/s) 3 00 (3 km/s) 3 (5 km/s) Freq Violations 2 2 1 1 1	San Car	7.4	7.5	80	2	2	0 03	 -r				
Oct 17 14 14500 2 0 02 Nov 8 7 6 9 7 7 14 14500 2 0 02 Dec 37 6 9 7 7 4 5 14500 0 03 7.3 Average 6 6 6 1 9 5 14500 0 55 Summer Limits 6 0 (5/wk) G 10/65 '9 0/8 5 (5/wk) G 200 1000 (3/wk) G 003 (5/wk) Winter Limits 6 0 (5/wk) G 90/8 5 (5/wk) G 200 1000 (3/wk) G 103 (5/wk) Freq Violations 2 2 1 1 1	2	2. 35 V O 21, 12	1.70 1. 14. 54.	8 2× 1.5	2.5	14. Company	0 03					
No. 16.97 (2004) 18.97 (2004)	io io	87	69	7.7		l	0 02					
Average 6 6 6 1 9 0 5 14500 0 55 Summer Limits 6 0 (5/wk) 6 1 9 0 (8 5 (5/wk) 2 1000 (3/wk) G 0/3 (5/wk) Winter Limits 6 0 (5/wk) 6 0/65 '9 0/8 5 (5/wk) 6 200 (3/wk) G 0/3 (5/wk) Limit Violations 2 2 1 1 Freq Violations 3 1 1		- 1-3.4. 20 Tr	10	سنه	- 3	0.6	1	,				
Average 0 </td <td>300</td> <td>0.00</td> <td></td> <td></td> <td>5</td> <td>14500</td> <td>0.55</td> <td>_</td> <td></td> <td></td> <td></td> <td></td>	300	0.00			5	14500	0.55	_				
Summer Limits 60 (5/wk) G 6065 90/85 (5/wk) G 200 1000 (3/wk) G 003 Winter Limits 60 (5/wk) G 60/65 90/85 (5/wk) G 200 1000 (3/wk) G 003 Limit Violations 2 1 1 Freq Violations 1 1	Average	00	1000	0 0/0 E (Ehab)		(3/wk)	0 03 (5/wk)	II (n				
60 (5MK) G 76.065 '9.085 (3MK) G ZOU 2000 (2MK) C ZOU 2 ZOU		6 U (5/WK)	0 0/0 0	(vale) Colo e		(3/wk)	0 03	II (
2	Winter Limits	60 (5/wk)	3 '6 0/6 5	3 (NW/C) C 9/0 F.		(100)		11				
Freq Violations	Limit Violations		2			,	_	_				
	Freq Violations					-		7				

Month 2000 2000 Jan Feb Mar (Williamson		-		Capacily	* 0 20 MGD / 0 40 MGD	40 MGD		Effective Date	05/14/99	
							2011				
		_			_						
	Flow	Flow	Flow	ворисвор	BOD/CBOD	вор/свор	BOD/CBOD	ворисвор	ворисвор	ворисвор	BOD/CBOD
	Inf Mo Avg	Inf Daily Max	Eff Mo Avg	Inf Mo Avg .	Eff Mo Avg	Wk Avg Max	Eff Dally Max	Eff Mo Avg	Wk Avg Max	min % removal	avg % removal
	MGD	MGD	MGD	mg/L	mg/L	mg/L	mg/L	spunod	spunod	*	3.
	0 153	0 255	Out of Service F31	183	3.0	3.0	3.0	4.2		97.5	98 4
	K10 169*-39 E	0.291	Out of Service F29	- FE. 203 14 5. 7.	· 08点点寸	ন বান্ডি0 ই টুক ে		型が24 B-14が重		27/5	: :3,88 5
	0 162 F7	0 290	0 177 F4	199	3.2	33	5.0	6.0	53	95.5	98 4
	Out of Service F30 3 1: 0 424 35	12 L 0 424 ST	整0219時間影	207	150m37	1. 12 2.	1	P. 257 44 15 S	1. 75.15.5 全点点	252 26 25	. 98 2
	0 177 F31	0 363	0 189	203	3.8	63	130	73		93.3	98 1
	nca F30		18 169 F. F. C. L.	- 3023111 FH	06-個点	3000	462.30 . FI	S. 42	公司。45世纪。	∴ 2,88,0	7 865 /
	Out of Service F31	0.251	0 175	267	30	30	30	43	45	98.3	6 86
	C. 0 1175 78F26	0117 SEES 84, 10 133 SAL		227	33.	-23.20 Exert	13.5	16.346,到为3	是三個46年的	100	ુ
	0 103	0 118	_	196	30	43	30	4 4	62	979	98 5
	5.0 0 88 July 1	1,1	T = 0 179	201	Tigar.	305 1500	3.0	科芸法42 5黑 / 28	17.152 E	\$4.5979 V	9.985
	0 103	0 158	0 196	220		7.3	160	7.5	10.8	93.7	978
	0.108	1		是"禁机"。	S. C. 84.	110, 13	《要150-13-45	(14.4) (13.8) (13.4)	生活公209等。	€ 860 €	್ಷ್ಯ 8 96/% :
Max	660 0	0.424	0 156	210	3.8	110	160	9	20.9	86.0	98 2
Summer I Imits Report (7wk)	Report (7/wk) c	Report	Report (7/wk) c	Report (3/wk) C	ľ.	. 15/75	* 20/10 (3/wk) C	17	25	40	85
Winter Imite	_11	Ranort	.Fl	Report (3/wk) C		15	20 (3/wk) C	. 17/33	. 25/50	40	82
I Imit Violations											
Value leaders	1		73	-	-		-				
SHORE CHILD	Summer May - October	Winter	November	Limits - Limit (frequency) sample type		F - Monitoring frequency violation(s)	short violation(s)	Design (Capacity & Limits	Capacity & Limits through 5/00 / starting 6/00	arting 6/00
Month	Ammonia	18	-	Ammonia		Ammonta	Sett Solids	Sett Solids			
2000	Inf Mo Avg	Eff Mo Avg	Wk Avg Max	Eff Daily Max	Eff Mo Avg	WK Avg Max	Inf Mo Avg	Eff Dally Max		Sample Type	
	mg/L	mg/L no Vio	Ĕ	mg/L no Vio	lbs no Vio	lbs no Vio	MI/L	ml/L no Vio		c - continuons	
Jan			F	0 22	0 16	0 24	16.0	001		C - composite	
Feb	1.1.1.1.1.1.1	0.14	20 24 3 AM F.	0.52	-0 25	0.55	171	1. 1. 1. 1. 1. 1. 1. 1. 1. 1. 1. 1. 1. 1	£. J	G - grab	
Mar		0 12	0.15	0.26	0 18	0 22	151	0.01			
Anr		0.50	0.49	4 15 West 1800	0.50	1 49	137	*0.30 TEMP			
May		0 12			0 19		18.5	ı			
unit	166	0.17	0.24	0 30	0.24	034	210	0.10	t		
Į.	4	0 11	0.12	0 13	0 15	ı	217	0.20			
Aug		0.18 Sw.	2013 1 A	09.0	:023	0.15	£3212	0 10			
Sep	1		0.36		0.21	0.52	207	0 05			
100	3,	0.00	70.10 7.5 3.7	0 13 **	.0 14	0.17	. 14, 210				
No.	,		0.25	·l	1 58	0.37	211	1			
	A STATE OF THE STA	14 55 ₹ 34 51	22,70,5 5 351	27 00- 10	24 25 1	30 90 - 3, 3	5.37196	1 40% - 178°	34		
Avg/Min/Max	#DIV/0!	14	22.7	27.0	2.3	30.9	18.9	140			
Summer Limits	ΑN	2.0	30	40 (3/wk) C	. 3/7	. 5/10	ΑN	10 (3/wk) C	0		
Winter Limits	NA	50	7.5	100 (3/wk) C	. 8/17	13/25	NA	10 (3/wk) C	О		
Limit Violations		-	9	10	- 1	3	_	1			
Free Violations				-	- -						-

-	Lynnwood Offinity Corp	קוטט עזוו	_	-		0 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0	_		Expiration Date	10/15/10	
County	Williamson				Capacity	* 0 20 MGD / 0 40 MGD	40 MGD		Effective Date	05/14/89	
			-	-	-	_					
Month	TSS	TSS	158	TSS	188	TSS	155	TSS	MOR	BYPASS	
2000	Inf Mo Avg	-Eff Mo Avg	Wk Avg Max	Eff Daily Max	Eff Mo Avg	Wk Avg Max	min % removal	ауд % гетоуа!	LATE	OVERFLOW	
	mg/L	mg/L	mg/L 'no Vla	mg/L i no Vio	lbs no Vio	lbs no Vio	%	*	N/A	# &JOR HR	
Jan	222	5.8	88	17.0	88	150	906	97.4			
Feb] 新219 (基本)	49.	7. 29.	2 300 - 00K	-74'	是所有無約11%	93.97	97.8	14 (TO) 14	4	
Mar	196	48	80		7.3	12.0	92.0	976		1	
Apr	203年 通江	22.1	1, 0,09	1470 .1	1,786	185.6(11-11-1	九14年上海北京	小孩188家	かん 一般をかから	J. 19. 182.	
May		17.2		1710 1		1876 1	197 1	92.1	,		
Jun	15 233 F.F.	η.	73	100 3 5-F1	F1.87	141'4 SE TEST	3.6.	5	1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1	10,	
la,	243		63		6.7	9.0	96.4	98.1			
Aug	经第211、3岁 . 形		193	-	285 (385)	\$10'2 - 15 Mer. 18 Erst	30 8 - STATE OF	2	Sale Caller	が特別	
Sep	258	5.8		90	. 1	117	956	97.8			Sample Type
Oct	242 - Jan	36	37 Jun 2	100 243		12631 X. F. SF S. Z.	ï	2,88,87	1. 1. 1. 1. 1. 1. 1. 1. 1. 1. 1. 1. 1. 1	33.0	silonuluo- 5
Nov	274	17.5	l		336	109 0	25 9 1	93.6			C - composite
Dec	142.223 July 122.2	, ,	147 (海江)		1.	149,72 14 TEST	1884 八次八元出	17. Tu	The state of the s	THE PARTY OF	G-grab
Avg/Min/Max		93	. 0.09	1710	190	187.6	114	95.9	-	0	
mmer Limits	Summer Limits Report (3/wk) C	30	40	45 (3huk)	C • 50/100	• E7/133	1 07	85			
Milness I brotte	C 1457 10000			н	200	201.00	2	3			
III EI TIIIII	Deport (Sywk) C	90	40	45 , (3/WK) L	20/100	-6//133	40	£			
Limit Violations		-	3	3		- 2				,	
Freq Violations	1			_	_		_				
	Summer May - October	ctober Winter	November - April ,		quency) sample type	Limits - Limit (frequency) sample type F - Monitoring frequency violation(s)	sency violation(s)	• Design	* Design Capacity & Limits through 5/00 / starting 6/00	through 5/00 / sta	irting 6/00
Month	00	Ħ	됩	Fecal	, Fecal	Chlorine	Total Nitrogen	Total Nitrogen	Total Nitrogen	Total Nitrogen	Total Nitrogen
2000	Eff Dally Min	Eff Dally Min	Eff Dally Max	Eff Geo Mean	Eff Daily Max	Eff Dally Max	Eff Mo Avg	Wk Avg Max	Eff Daily Max	EH Mo Avg	Wk Avg Max
	mg/L	standard units	standard units	col / 100 mL	courso mt. no Vio	mg/L no Vio	mg/L	mg/L	mg/L	spunod	spunod
Jan	8.6	. 89	7.2	4	06	0 03					
Feb		, ž. 19	711	. 25.	2	10 03 . Kriz. \	1.87 . 16	Sell assist	10 日本	31 62	
Mar	93	99	69	5	21600 1	0 02	,				
Apr	ST181 YEV	64 . 1	71.	e441 5:	. 500	0 03 14 7		* # # # & # & # & # & # & # & # & # & #	1 Fig. 1. 1.	1 To 10 1	33e
May	7.8	68	7.1	27	. 009	0 03					
Jun	, 72 / /FI	67 %	80	332 175	700 F1	1-080-5-31	Limit appealed	2 2 2 2 2 2 2 2 2 2 2 2 2 2 2 2 2 2 2	17		1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1
Juc	80	62 2	7.9	36	136	0.03					
Aug	7.70	65	7.4	61	- 204	0.03		401 - Way 2, 15	1. 24. 5	1	
Sep	7.7	6.8	7.2	6	208	0 03					
Öct	6,77	1. √.₹69	. 75,₹	3	, 28	10.03 \$ 45 E	1 1 1 2 2	1 1 5 3 5 5 VES	1. 1. 1. 1. 1. 1. 1. 1. 1. 1. 1. 1. 1. 1	4.1	177
Nov	8.0	7.3	7.8	9	700	0 03					
Dec	J. 18 8, 10 July	15年11年12年	167 793A	1,2 1,2	. 28	-0.03 \ \}\ \\ \\ \\ \\ \\ \\ \\ \\ \\ \\ \\	148 JAN 1	生。我们是完	11、13、13、14	£ 5.6.7.	The state of the s
Average	7.0	6.2	8.0	13	21600	080	0.0	0.0	0.0	#DIV/0i	0.0
Summer Limits	s 60 (5/wk) G	6.5	85 (5/wk) G	Н	1000 ; (3/wk); G	*0 03/0 04 (5/wk) G	*NA/3	. NA/45	. NA / 6 (3/wk) C	* NA / 10	• NA / 15
Winter Limits	60 (5/wk) G	6.5	8 5 (5/wk) G	3 200	1000 (3/wk) G	*0 03/0 04 (5/wk) G	• NA / NA	• NA / NA	• NA / NA	• NA / NA	• NA / NA
Limit Violations		3	-			1					
									_		

. 45 ± 88 3 %. 98.4 вор/свор 98.1% * 9,46 49 86 98 5 97 4 97.9 97.9 5.79 min % removal رون <u>197</u>0، يغ 96 0 BOD/CBOD 97.8 93 1 0.98 912 98 0 · 建一 60 独于明 3.545 CH BOD/CBOD Wk Avg Max pounds 119 16 6 25 50 52 \$ 84 W EH Mo Avg £ 96 54 2.40 42 06 4 0 3. 1/4 0% 1. LFP . 30 Value F2 24年30年4年FZ 0.95 EH Dally Max ворисвор 14/3.0 ° F , 0 6t 180 90 30 의 か。 < < 人 方式 計 BOD/CBOD Wk Avg Max 30: mg/L 12.0 /ርንኒቷርጵ**5** 0⁷. 4 0 30 4.7 李 9 E. Eff Mo Avg mg/L 6 6 13 7 32 30 14.30 -√21435,9F2 197 F2 250 - 156 5 45 45 195 730 4.179 ANF2 15151 JUF2 Report (3/wk) C BOD/CBOD Inf Mo Avg 200 191 193 Report (7/wk) c Flow
Eff Mo Avg
MGD
0 206
- 0 290
0 170 0 174 87HO (178 , 0217 ... 50 170 0 181 0 181 0 171 0 227 0 195 121 0 0 234 8.0 220 Sag Flow Inf Dally Max 0 121 0 220 0 133 0 134 0 467 0 380 0 104 0 105 7457 0 106 2 0 135 0 135 - =0 099 A.F. 到0.199到最高。 Flow Inf Mo Avg Summer Limits Report (7/wk) 0 104 MGD 20 117 0 098 0 208 0 131 Apr ... May Jun Month 2001 Jan. Feb Mar Nov Sep Dec

05/14/99

Expiration Date Effective Date

TN0029718 0 40 MGD

Permit # Capacity

Lynnwood Utility Corp

Williamson

Facility

Sample Type
c - continuous
C - composite
G - grab

22

2

Report (7/wk)

Winter Limits

Freq Violations Limit Violations

	Summer May - October		November - April	Winter November - Apri Limits - Limit (frequency) sample type F - Monitoring frequency violation(s)	ancy) sample type	F - Monitoring freque	ency violation(s)	
Month	Ammonia	Ammonia	Ammonla	Ammonla	Ammonia	Ammonla	Sett Solids	Sett Solids
2001	Inf Mo Avg	Eff Mo Avg	Wk Avg Max	Eff Daily Max	Eff Mo Avg	Wk Avg Max	Inf Mo Avg	Eff Daily Max
-	mg/L	mg/L no Vio	mg/L no Vio	mg/L no Vio	lbs no Via	lbs no Vio	mI/L	ml/L
Jan		18 96 1	25 80 4	30 00 14	31 02 1	40 70 4	22.2	0 05
Feb	Section Section	1 66	10 50 1	6.20 *** 33.33	2.80 3	14,69 34	1 14 W. W.	. 1001
Mar		0 11	031	0.20	0 16	0.86	213	0.01
Apr		0.62	1 59 -	3.20位代表企業	K** 68 0 .	2 24 113	24.5	0 05
May		0.23	0.49	080	0 36	0 83	22.2	0 05
Jun	, S	0.14	0 25	0.25 E	0.20	0.41, 45.	::256	0.05
Jul		0.18	0.34	89 0	0 27	0 55	22 2	0 05
Aug	学 510位	3 43 🗁 1135	7 30 1	13 50 - 5 3 - 7 FZ	4 60 1.	13.6 10 08.5 3.1 35.	5. 524 4 6.12 ·	020
Sep		5.51 1	18 00 3	20 00 4 F1	00 9	16 67 2	18.2	0 20
Oct	1、小男子 二級	112	342- 1	11 00、67 1 公路F3	2 00%	10 J. 184, 194 P.	1 - 1 - 15 15 18 - 1 - 1 - 1	
Nov		0.56	0 22	4 80 F1	1 00	96 0	13.8	1 00
Dec	Land Strategies	0 13, 4" (54)	1 95 ፣	0.29~?``, ry3-F2	0.22	3 36 87 1/2 1/2	Mr. 1944	. 050 7 /
Avg/Min/Max	510	2.7	25 8	30 0	4 1	40.7	19.9	1 00
Summer Limits	NA	2.0	30	40 (3/wk) C	7.0	10.0	NA	10 (3/wk) C
Winter Limits	NA	50	7.5	10 0 (3/wk) C	17	25 0	ΑΝ	10 (3/wk) C
Limit Violations		3	10	22	1	7		
Freq Violations			,	80				

County	Lylliwood Other Colp	dipo			Capacity	0 25 MGD		Ef	Effective Date	05/14/99	
•											
	AA IIII GA III G										
Month	188	TSS	TSS	158	TSS	TSS	155	TSS	MOR	SEWER	
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IN THE CHANCERY COURT FOR THE STATE OF TENNESSEE TWENTIETH JUDICIAL DISTRICT, DAVIDSON COUNTY RECEIVED

DEC 3 0 2002 Day Co Chancery Court

STATE OF TENNESSEE, ex rel.
PAUL G. SUMMERS, in his official capacity
as the Attorney General And Reporter of
Tennessee and MILTON H. HAMILTON, JR.
Commissioner of the Tennessee Department of
Environment and Conservation,

Plaintiffs.

MATT and ANN DOBSON, MARTIN and LAURIE CLAYTON, HANK and MARY BROCKMAN, DR. DANIEL and LORIE CANALE, BRENT and JANEL MAHER, DIANNA MAHER, RON and DONNA TUTT, and DR. BEN GRIFFITH,

Plaintiffs-Intervenors,

,

ı No. 02-1538-II

SOUTHERN UTILITY CORPORATION, d/b/a LYNWOOD UTILITY, CORPORATION and DAVIS LAMB,

Defendants.

ORDER GRANTING TEMPORARY INJUNCTION

Plaintiffs, State of Tennessee, ex rel the Attorney General and Reporter, and the Commissioner of the Tennessee Department of Environment and Conservation, filed a motion for temporary injunction under the Water Quality Control Act, Tenn Code Ann §§ 69-3-101 to 69-3-137, which came to be heard on December 20, 2002 before the Honorable Ellen Hobbs Lyle The plaintiffs-intervenors joined in the State's motion Based on the motion, responses and affidavits filed by the parties, arguments of counsel, and the entire record in this cause, the Court finds that the State's application should be granted in the following respects

The record reflects that the defendants have a five year history of violations of their National Pollutant Discharge Elimination System (NPDES) permits, and as recently as October 2002 defendants have not conducted laboratory operations, including sample collection and analysis, in accordance with EPA-approved methodology, as mandated in their existing NPDES permit

(m1-7-03

- In accordance with Tenn. Code Ann §69-3-117, the defendants are enjoined from operating their sewage treatment plant in violation of the effluent parameters and all other terms and conditions of their 1999 and 2002 NPDES permits, which are not under appeal to the Tennessee Water Quality Control Board
 - 3 This injunction shall take effect immediately

IT IS THEREFORE ORDERED, ADJUDGED and DECREED that defendants must immediately comply with the effluent parameters and all other terms and conditions of their 1999 and 2002 NPDES permits, which are not under appeal to the Tennessee Water Quality Control Board. All other matters are reserved pending further Orders in this cause

ELLEN HOBBS LYLE CHANCELLOR

SUBMITTED FOR ENTRY

Elizabeth P McCarter (BPR # 10531)

Senior Counsel

Office of the Attorney General

P.O Box 20207

Nashville, TN 37202

(615) 532-2582

Attorney for Plaintiffs

CERTIFICATE OF SERVICE

I certify that a true and exact copy of the foregoing proposed Order has been served upon the following via fax and first class mail, postage prepaid, on this 30 day of December 2002

Jeffrey R. King Stites & Harbison PLLC SunTrust Center 424 Church Street, Suite 1800 Nashville, TN 37219-2387

> Elizabeth L. Murphy Attorney at Law 45 Music Square West Nashville, TN 37203

> > Elizabeth P McCarter

Senior Counsel

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IN THE CHANCERY COURT FOR THE STATE OF TENNESSEE JUN-2 1 208 TWENTIETH JUDICIAL DISTRICT, DAVIDSON COUNTY Day, Co. Chancery Court STATE OF TENNESSEE, ex rel. PAUL G. SUMMERS, in his official capacity as the Attorney General And Reporter of Tennessee and MILTON H. HAMILTON, JR. Commissioner of the Tennessee Department of Environment and Conservation, Plaintiffs, MATT and ANN DOBSON, MARTIN and LAURIE CLAYTON, HANK and MARY BROCKMAN, DR. DANIEL and LORIE CANALE, BRENT and JANEL MAHER, DIANNA MAHER, RON and DONNA TUTT, and DR. BEN GRIFFITH, Plaintiffs-Intervenors, T021 No. 02-1538-III v. Notice of Entry Requested Per SOUTHERN UTILITY CORPORATION, Tenn. R. Civ. P. 58 d/b/a LYNWOOD UTILITY, CORPORATION and DAVIS LAMB,

CONSENT ORDER AND DISMISSAL

Defendants.

It appears to the Court, as evidenced by the signatures of counsel for all parties affixed below, that the parties have compromised and settled all matters in dispute between and among them with respect to the subject matter of this litigation. As part of this settlement, the parties agree as follows:

1. Defendants Southern Utility Corporation d/b/a Lynwood Utility Corporation and

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Davis Lamb shall collectively pay a civil penalty in the amount \$70,000.00 to the State of Tennessee and damages in the amount of \$30,000.00 to the plaintiffs-intervenors within 30 days of entry of this Order by the Court.

- 2. Defendants shall make no further connections, line extensions, or allow increased flows to their waste water collection system, except in accordance with their NPDES permit.
- 3. From the date of entry of this consent order through July 31, 2006, defendants may be subject to a civil penalty of up to \$1,000.00 for each violation in the event defendants' facility violates effluent limits for total suspended solids, settleable solids, carbonaceous biochemical oxygen demand, pH, ammonia, total residual chlorine, total phosphorous, fecal coliform, e. coli and dissolved oxygen, or per instance of collection system overflows or in-plant bypasses.
- 4. From the date of entry of this consent order through April 30, 2005, defendants may be subject to a civil penalty of up to \$500.00 for each violation in the event defendants' facility violates the effluent limits for total nitrogen. From April 30, 2005 through July 31, 2006, defendants may be subject to a civil penalty of up to \$1,000.00 for each violation in the event defendants' facility violates the effluent limits for total nitrogen
- 5. The total contingent civil penalties assessed against defendants under items 3 and 4 shall not exceed a total of \$10,000.00 for any given month.

IT IS THEREFORE ORDERED, ADJUDGED and DECREED that:

1. Defendants Southern Utility Corporation d/b/a Lynwood Utility Corporation and Davis Lamb shall collectively pay \$70,000.00 in civil penalties to the State of Tennessee and \$30,000.00 in damages to the plaintiffs-intervenors within 30 days of entry of this Order;

- 2. Defendants shall make no further connections, line extensions, or allow increased flows to their waste water collection system, except in accordance with their NPDES permit;
- 3. From the date of entry of this consent order through July 31, 2006, defendants may be subject to a civil penalty of up to \$1,000.00 for each violation in the event defendants' facility violates effluent limits for total suspended solids, settleable solids, carbonaceous biochemical oxygen demand, pH, ammonia, total residual chlorine, total phosphorous, fecal coliform, e. coli and dissolved oxygen, or per instance of collection system overflows or in-plant bypasses;
- 4. From the date of entry of this consent order through April 30, 2005, defendants may be subject to a civil penalty of up to \$500.00 for each violation in the event defendants' facility violates the effluent limits for total nitrogen. From April 30, 2005 through July 31, 2006, defendants may be subject to a civil penalty of up to \$1,000.00 for each violation in the event defendants' facility violates the effluent limits for total nitrogen;
- 5. The total contingent civil penalties assessed against defendants under items 3 and 4 shall not exceed a total of \$10,000.00 for any given month;
 - 6. All court costs shall be borne by the named defendants in this action;
 - 7. This action is hereby dismissed with prejudice.

IT IS SO ORDERED.

ELLEN HOBBS LYVI

Chancellor

APPROVED FOR ENTRY:

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